

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Of:

Albert Charles McNamara

Patent No. 5,901,641

Issued: May 11, 1999

Serial No.: 10/072,001

Filing Date: February 8, 2002

Title: BAFFLE FOR DEEP FRYER  
HEAT EXCHANGER§  
§  
§  
§  
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§  
§  
§  
§  
§  
§

Attorney Docket No.: P-109009(Reissue)

Examiner: Timothy F. Simone

Art Unit: 1761

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450DECLARATION OF ALBERT CHARLES McNAMARA

1. My name is Albert Charles McNamara. I am the inventor of the invention entitled "Baffle For Deep Fryer Heat Exchanger."

2. I have personal, first-hand knowledge of the facts stated herein.

3. I herby affirm that the attached reissue oath/declaration, attached as Exhibit "2A," contains my full and complete signature, as does the original oath/declaration, attached as Exhibit "2B."

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,



ALBERT CHARLES McNAMARA

Date:

22 MAY 03

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>IN RE REGISTRATION/APPLICATION OF:</b> Albert Charles McNamara  Patent No. 5,901,641  Issued: May 11, 1999  Title: Baffle for Deep Fryer Heat Exchanger	<b>ATTY DKT NO. P-109009(reissue)</b>  GROUP ART UNIT: ____  EXAMINER: ____
<b>TO: BOX REISSUE</b> <b>Assistant Commissioner of Patents and Trademarks</b> <b>Washington, D.C. 20231</b>	
<b>REISSUE OATH/DECLARATION BY THE INVENTOR</b>	
<p>Dear Sir/Madam:</p> <p>As a below named inventor, I hereby declare that:</p> <p>My residence, mailing address and citizenship are stated below next to my name.</p> <p>I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is described and claimed in patent number 5,901,641, granted May 11, 1999, and for which a reissue patent is sought on the invention entitled Baffle For Deep Fryer Heat Exchanger, the specification of which</p> <div style="margin-left: 40px;"> <input checked="checked" type="checkbox"/> is attached hereto.  <input type="checkbox"/> was filed on _____ as reissue application number ____/_____                  and was amended on _____.  <div style="text-align: center;">(if applicable)</div> </div>	

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check boxes that apply).

- ☒ by reason of a defective specification or drawing.  
☐ by reason of the patentee claiming more or less than he had the right to claim in the patent.  
☐ by reason of other errors.

At least one error upon which reissue is based is described below.

The specification of the original patent failed to explicitly describe holes upon the baffle plate (40) through which heating fluid (B) may pass.

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant. As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith.

**Name(s)**

**Registration Number**

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Richard R. Ruble  
Daniel D. Chapman  
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**Correspondence Address: Direct all communications about the application:**

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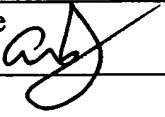
Fax

(210) 978-7790

I hereby declare that all statements made herein of my own knowledge are true and that statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

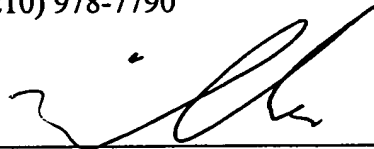
**Full name of sole or first inventor (given name, family name)**

Albert Charles McNamara

Inventor's signature 	Date 28 JAN 02
Residence San Antonio, Texas	Citizenship United States
Mailing Address 302 Spencer Lane, San Antonio, Texas 78201	
Full name of second joint inventor (given name, family name)  N/A	
Inventor's signature	Date
Residence	Citizenship
Mailing Address	
Full name of third second joint inventor (given name, family name)  N/A	
Inventor's signature	Date
Residence	Citizenship
Mailing Address	
<input type="checkbox"/> Additional joint inventors are named on separately numbered sheets attached hereto.	

Respectfully submitted,

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112 E. Pecan Street, Suite 2100  
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By   
Mark H. Miller  
Regis. No. 29,197

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service, as Express Mail Post Office to Addressee (37 CFR 1.10), Mailing Label No. EL662647244US addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Date: February 8, 2002

Carolyn J. Gill  
Carolyn J. Gill

3052108.1

# DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

## BAFFLE FOR DEEP FRYER HEAT EXCHANGER

the specification of which is attached hereto unless the following space is checked:

  X   is attached hereto.  
\_\_\_\_\_ was filed on \_\_\_\_\_ as United States Application Serial Number or PCT International Application Number \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby appoint the following attorneys and agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

<u>Gregory J. Cohan</u> Reg. No. 40959	Dale A. Malone	Reg. No. 32155
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as my Attorneys and as my Registered Patent Agents.



Address all telephone calls to Gregory J. Cohan at (617) 227-7111.

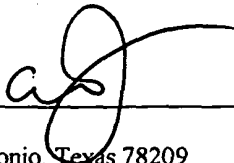
Address all correspondence to Joseph M. Potenza, Banner & Witcoff, Ltd., 1001 G Street, N.W. - 11th Floor, Washington, D.C. 20001-4597.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole inventor (given name, family name):

**Albert Charles McNamara**

Inventor's signature: \_\_\_\_\_



Date: 29 Oct 98

Residence: 2307 Kenilworth, San Antonio, Texas 78209

Citizenship: U.S.A.

Post Office Address: 2307 Kenilworth, San Antonio, Texas 78209

H:\ATTY\GJC\AFC\175339\DECLARAT.POA

Pages 2-6 of Claimed of Amendment with Portion Identifiers

A "As shown in Fig. 3, in one embodiment, crease 44 of each tab 42 is downstream with respect to the flow of the heating fluid designated as "B" in Figure 3. As shown in Fig. 3, heating fluid B is deflected by tabs 42.

B As shown in Fig. 3 and as discussed herein, tabs 42 comprise portions of plate 40 which are bent outwardly away from either first surface 41 or second surface 43 of plate 40. As shown in Figs. 3 and 6-9, at least one of tabs 42 is positioned in the first portion 54 of plate 40 on one side of the longitudinal axis of plate 40 designated as "L" in Figs. 3 and 6-9 and at least one other of tabs 42 is positioned in second portion 56 of plate 40 which is on the other side of plate 40's longitudinal axis L.

D As shown in Figs. 3, 4, and 6-9, at least some of tabs 42 are positioned in a plurality of rows of tabs.

E As shown in these Figures, in some embodiments, the rows extend in a direction substantially perpendicular to the longitudinal axis of plate 40.

F As shown in Figs. 3, 4, and 6-9, each row of tabs has a tab 42 positioned in first portion 54 of plate 40 and a tab 42 positioned in second portion 56 of plate 40. As shown in Fig. 3, in one embodiment, a row of tabs has a tab 42a extending outwardly

G away from first surface 43 of plate 40, an adjacent tab 42b extending outwardly away from second surface 45 of plate 40 and a third tab 42c which is adjacent tab 42b and which extends outwardly away from first surface 43 of plate 40.

H As shown in Fig. 3, other rows of tabs may have the individual tabs extending from either the first surface 43 or second surface 45.

I  
As shown in Figs. 3 and 6-9, in some embodiments, for the purpose of describing location and distribution of invention elements, a center line of plate 40 may be located where the longitudinal axis is shown located along the center of plate 40.

J  
As shown in the figures, in some embodiments tabs 42, holes 58 and tab/hole pairs are arranged so the same are found on both sides of the center line.

K  
Further, as shown in the figures and described herein, in some embodiments these elements are also arranged symmetrically in a pattern about the center line.

L  
In such embodiments, as shown in the figures, the portion of the plate 40 referred to as first portion 54 is instead referred to as first half 54 and the portion of plate 40 referred to as second portion 56 is instead referred to as second half 56.

M  
As shown in Fig. 3, each tab 42 is adjacent to its corresponding hole 58 in plate 40 created by bending tab 42 from plate 40.

N  
At least a portion of a side of each hole 58 is comprised of crease 44 of tab 42 that hole 58 is adjacent to.

O  
As shown in Fig. 3, crease 44 both connects tab 42 to plate 40 and is at least a portion of a side of hole 58.

P  
As shown in Fig. 3 and reflected in Figs. 4-10, tabs 42 extend outwardly from plate 40 over at least part of their adjacent corresponding holes 58.

Q  
As expressly shown in Fig. 3, and as is implicit in Figs. 4-10 and the above discussion, heating fluid B is flowable through holes 58 created in plate 40 by bending tabs 42 out of plate 40.

R  
Further, in some embodiments, as shown in Fig. 3 and implicit in Figs 4-10, heating fluid B is diverted by inner surface 60 of tab 42 through tab 42's corresponding hole 58.

S  
As shown in Figs. 3, 4, 5, and 10, the tabs 42 are not in contact with heat transfer tube 16. The baffle plate 40 is located and angled within transfer tube 16, and each of the plurality of tabs 42 on baffle plate 40 have a length and angle which positions tabs 42 relative to heat transfer tube 16 so the tabs 42 are not in contact with heat transfer tube 16.

T  
No structure is shown in this application which

(T) continued

prevents the heated gas from flowing between the end of each tab 42 and the portion of heat transfer conduit 16 most closely adjacent to the end of each tab 42. As discussed above, the increased turbulence of flow within heat transfer tube 16 caused by the invented baffle plate improves and enhances heat transfer from the hot gases through heat transfer tube 16 into the vat containing shortening of the deep fat fryer system.

(U)

(V) Each tab 42 and its corresponding hole 58, share a common crease 44 and are referred to herein as comprising a "tab/hole pair." As shown in Fig. 3, tab 42a and hole 58a comprise tab 42a/hole 58a pair. Tab 42b and hole 58b comprise tab 42b/hole 58b pair. Tab 42c and hole 58c comprise tab 42c/hole 58c pair.

(W)

(X)

(Y) As shown in Fig. 3, Web 46a is the portion of plate 40 between tab 42a/hole 58a pair and tab 42b/hole 58b pair. Web 46b is the portion of plate 40 between tab 42b/hole 58b pair and tab 42c/hole 58c pair.

(Z) As shown in Figs. 3 and 6-9, each row of tabs 42, holes 58 and tab/hole pairs may be comprised of at least two tabs, two holes or two tab/hole pairs, or at least three tabs, three holes and three tab/hole pairs, or at least four tabs, four holes and four tab/hole pairs. No limit to the number of tabs, holes or tab/hole pairs in a row is shown.

As shown in Figs. 3 and 6-9, each row has  $n - 1$  webs, where  $n$  equals the number of tab/hole pairs in the row. If a row is comprised of three tabs and three holes, i.e. three tab/hole pairs, that row has



two webs (3 tab/hole pairs - 1 = 2 webs). If a row is comprised of four tabs and four holes, i.e. four tab/hole pairs, that row has three webs (4 tab/hole pairs - 1 = 3 webs).

As shown in Figs. 3-5 and 7-10, the relationship of tabs 42 on the baffle plate 40 is to generally present alternating sizes, arrangements and angles to the flowing heated gas and alternating from extending from first surface 43 and then second surface 45, for the purpose of increasing turbulence. Some rows are presented in which tabs 42 alternately extend from the first side and second side. As shown in the figures, tabs 42 are presented which extend from the first surface of the tab preceding it (from the point of view of the flowing heated gas of Fig. 3) extend from the second surface and vice versa.

As shown in the Figs., an equal or approximately equal number of tabs, holes, webs, and tab hole pairs may be arranged on either side of the center line of baffle plate 40 on both sides of the baffle plate, which is shown in Figs. 3 and 6-9 as corresponding with longitudinal axis L. As shown in Figs. 3 and 6-9, they may be and arranged generally symmetrically about the longitudinal axis L. As shown in Fig 6, the webs and tabs may be positioned in straight lines, one behind another, in the direction of the longitudinal axis L. As shown in Fig 6, the tabs 42 may be similarly positioned."

② continued

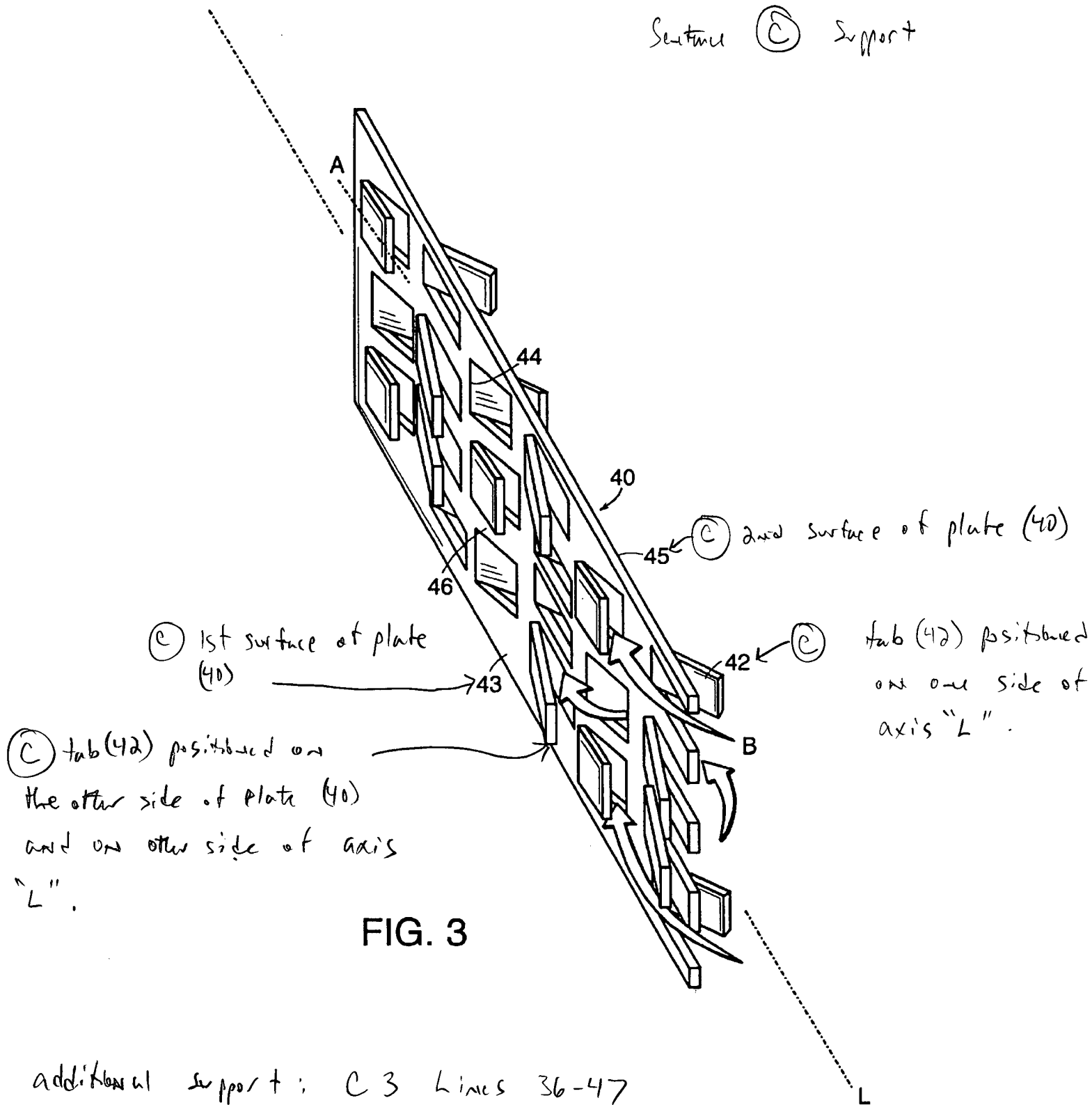
Exhibit B

“As shown in Fig. 3 and as discussed herein, tabs 42 comprise portions of plate 40 which are bent outwardly away from either first surface 41 or second surface 43 of plate 40.”

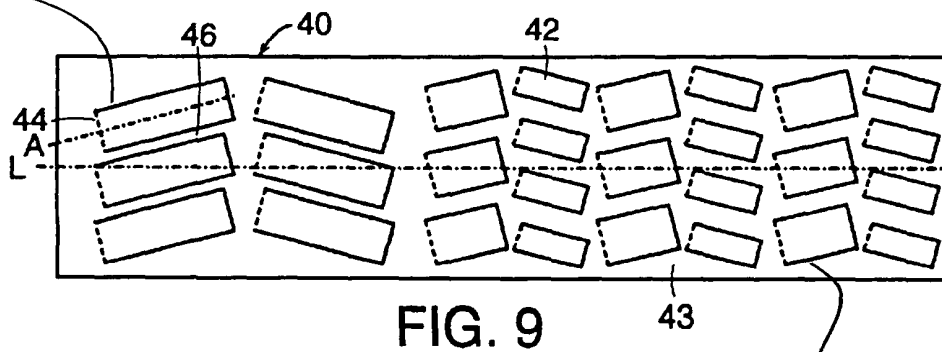
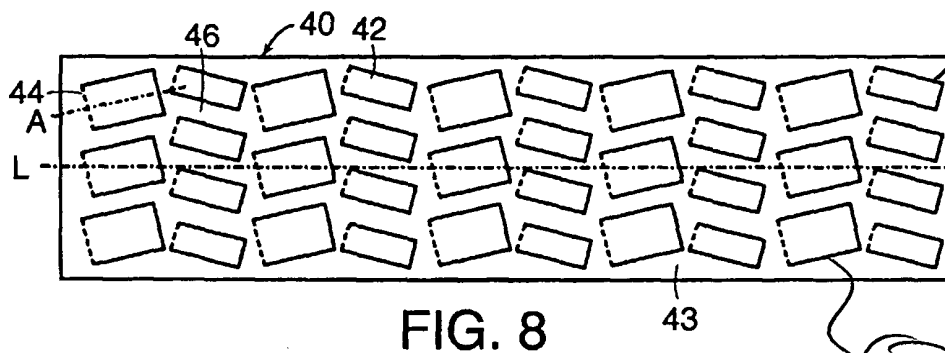
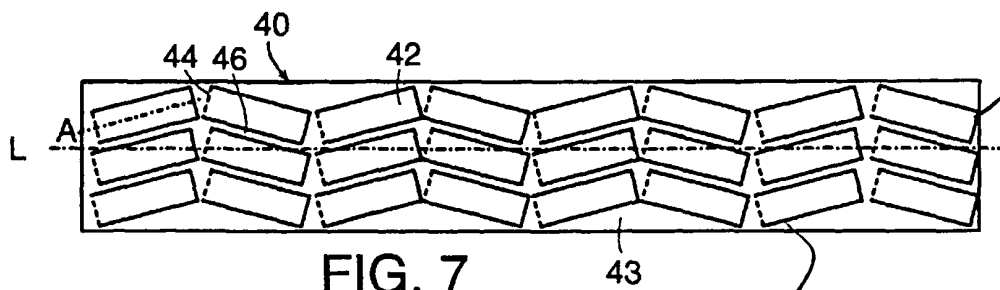
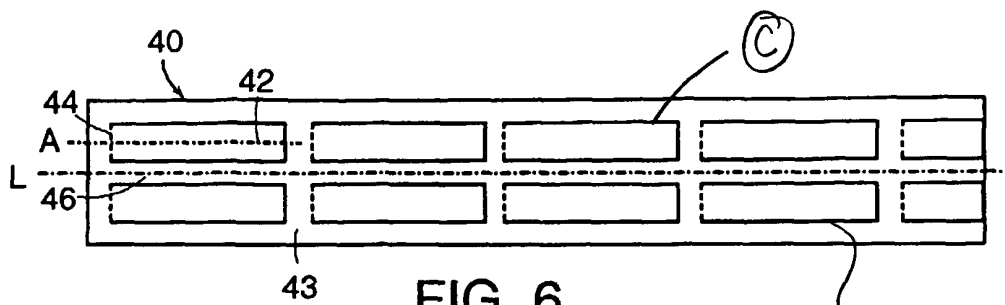
Exhibit C

“As shown in Figs. 3 and 6-9, at least one of tabs 42 is positioned in the first portion 54 of plate 40 on one side of the longitudinal axis of plate 40 designated as “L” in Figs. 3 and 6-9 and at least one other of tabs 42 is positioned in second portion 56 of plate 40 which is on the other side of plate 40’s longitudinal axis L.”

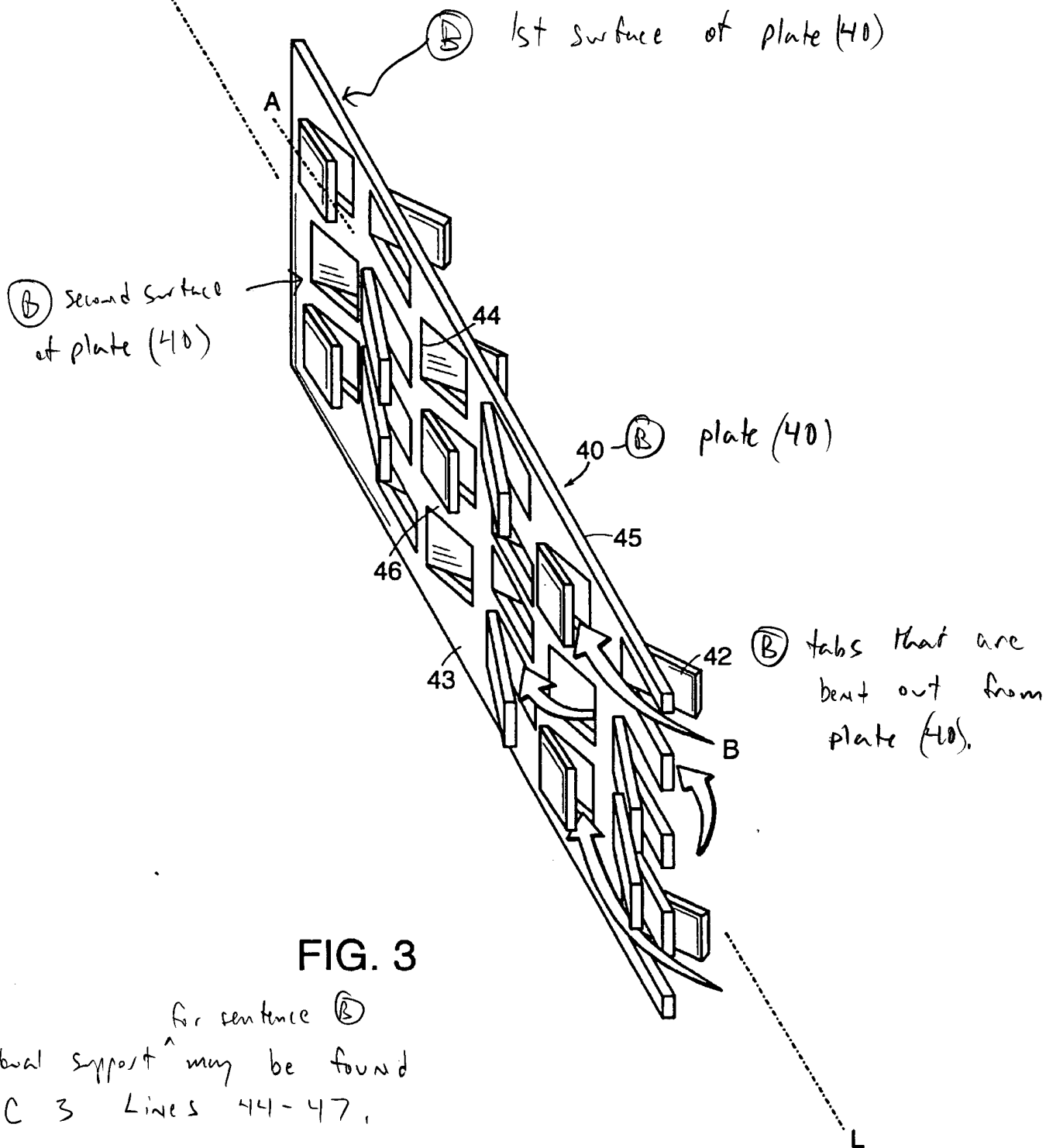
Section (C) Support

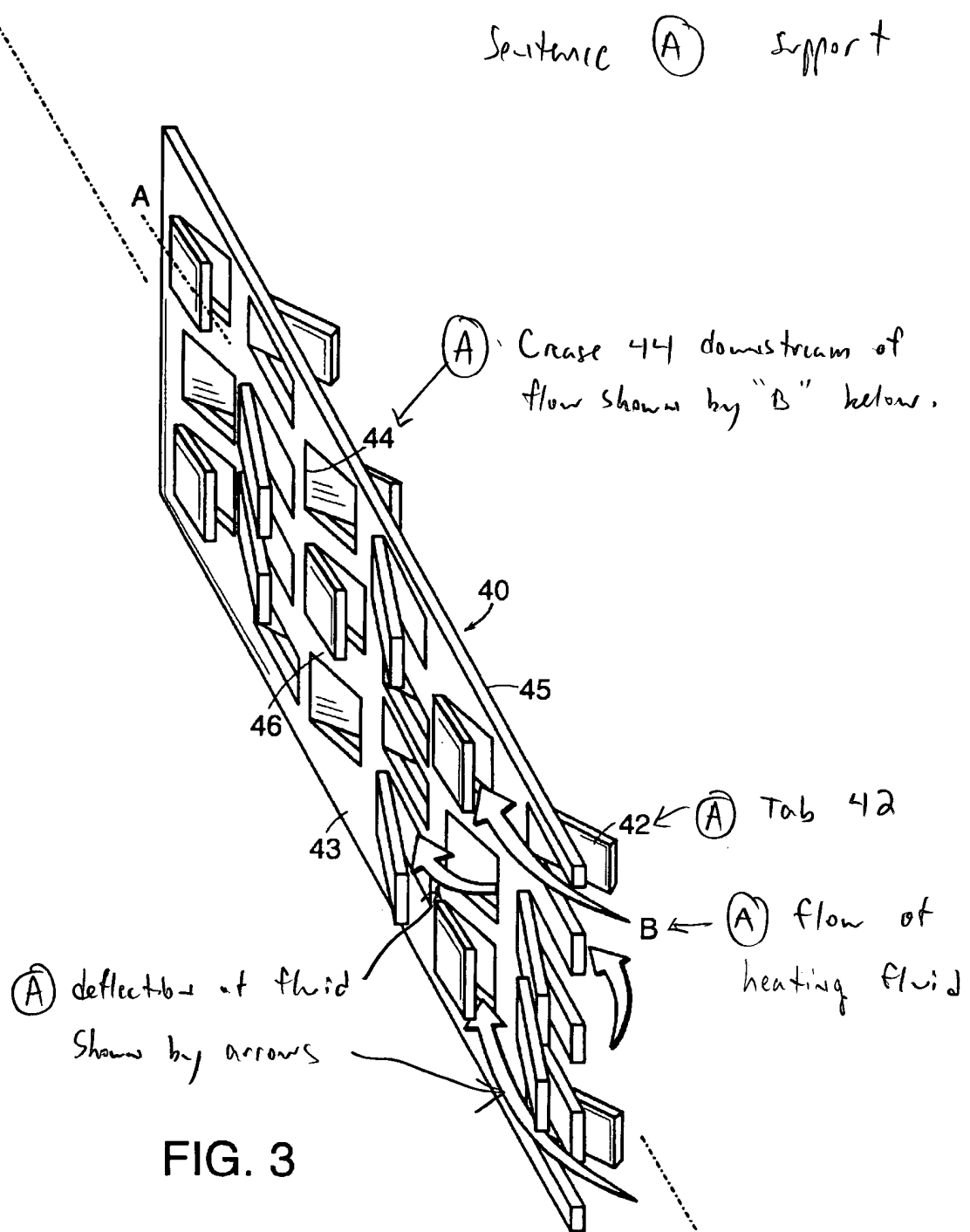






Sentence (B) Support





Additional examples of  
Spec. support may be found @

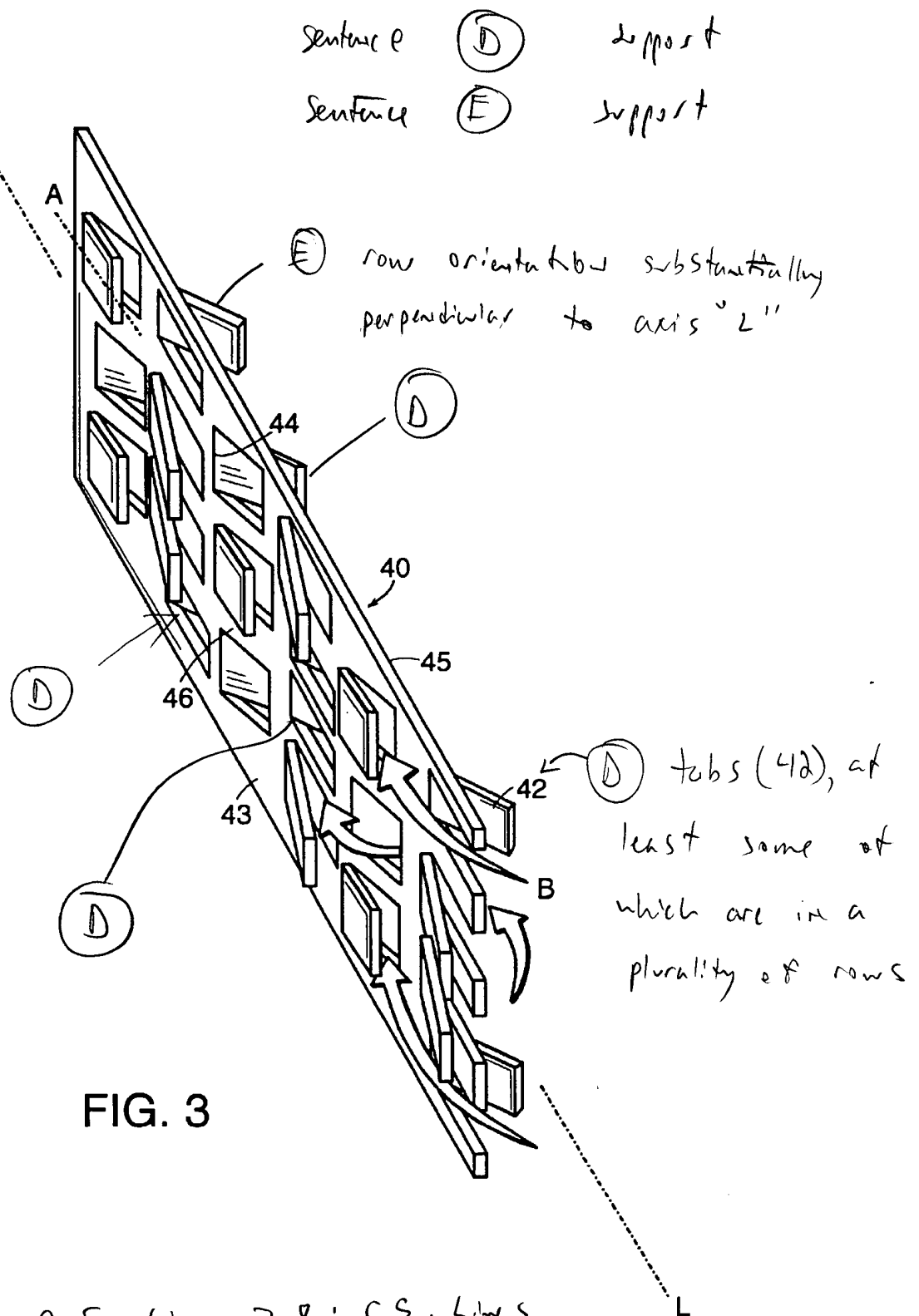
C 2, Lines 2-8; C 2, Lines 18-21; C 4, Lines 9-14

Exhibit D

“As shown in Figs. 3, 4, and 6-9, at least some of tabs 42 are positioned in a plurality of rows of tabs.”

Exhibit E

“As shown in these Figures, in some embodiments, the rows extend in a direction substantially perpendicular to the longitudinal axis of plate 40.”



additional support CS, Lines 7-8; CS, Lines 25-28; CS, Lines 39-42; CS, Lines 46-47.

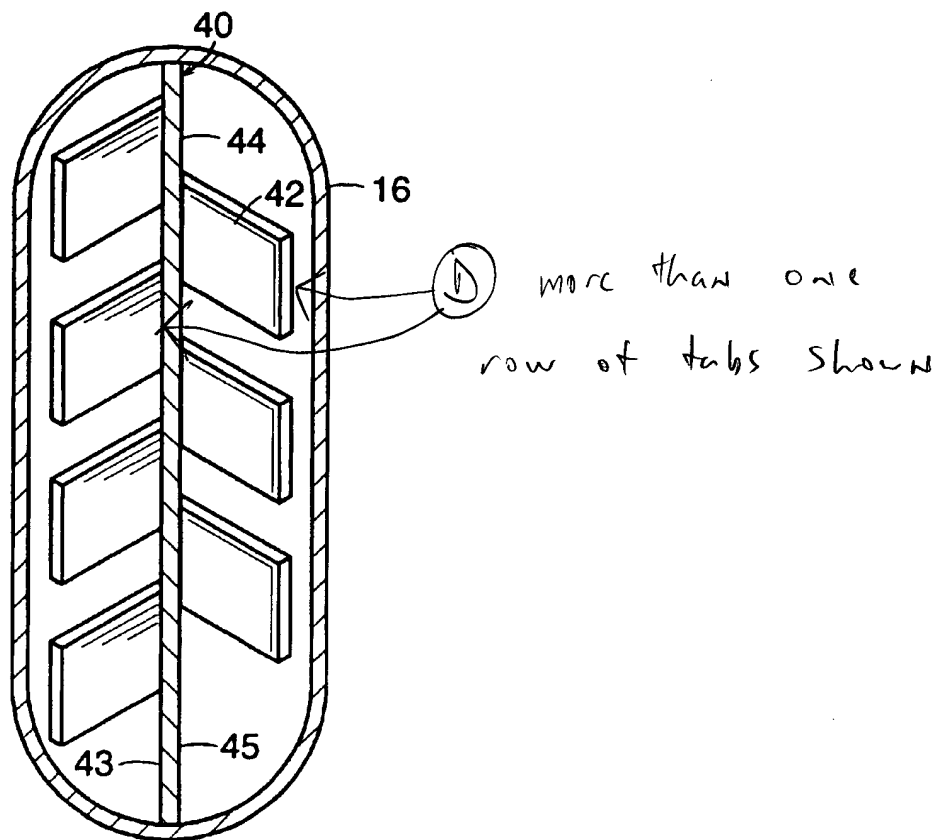


FIG. 4

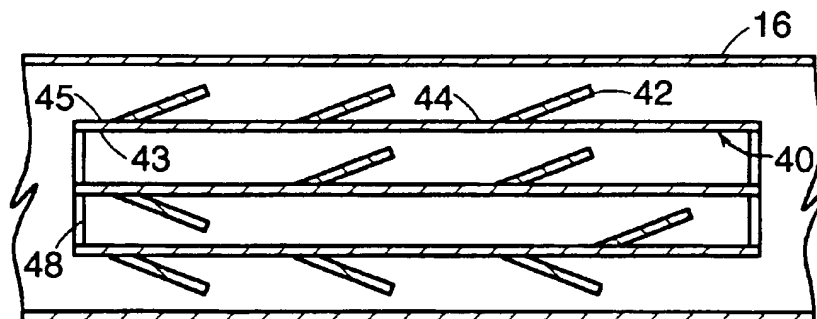


FIG. 5

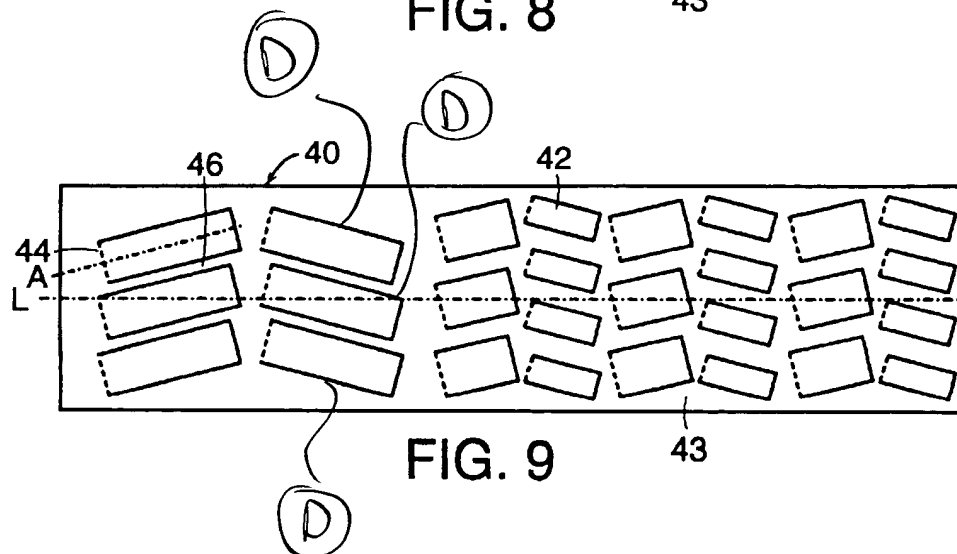
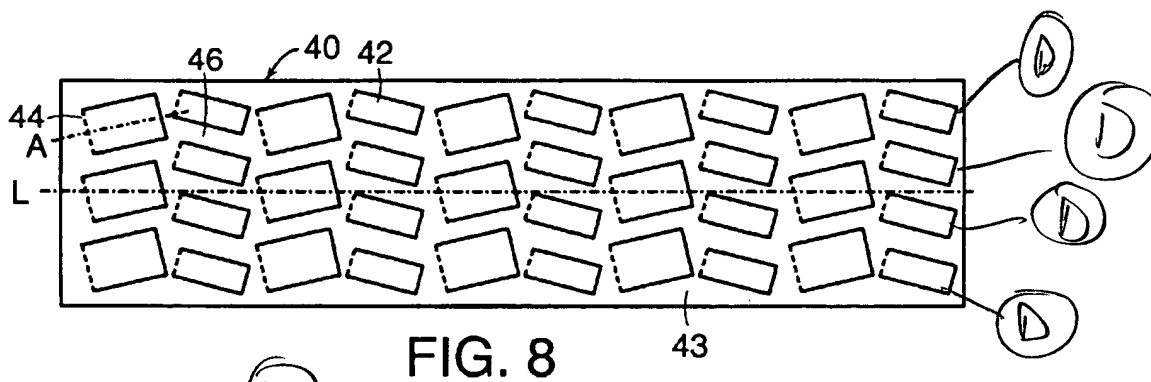
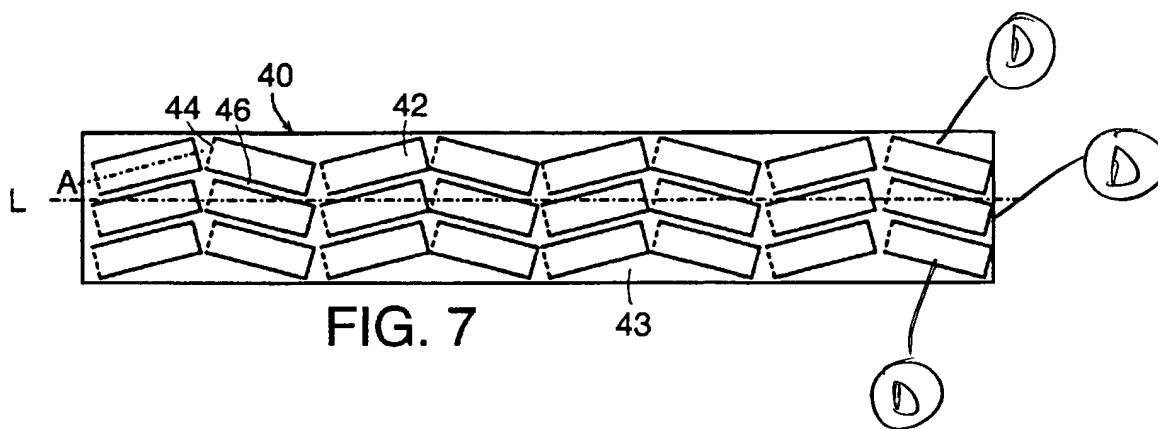
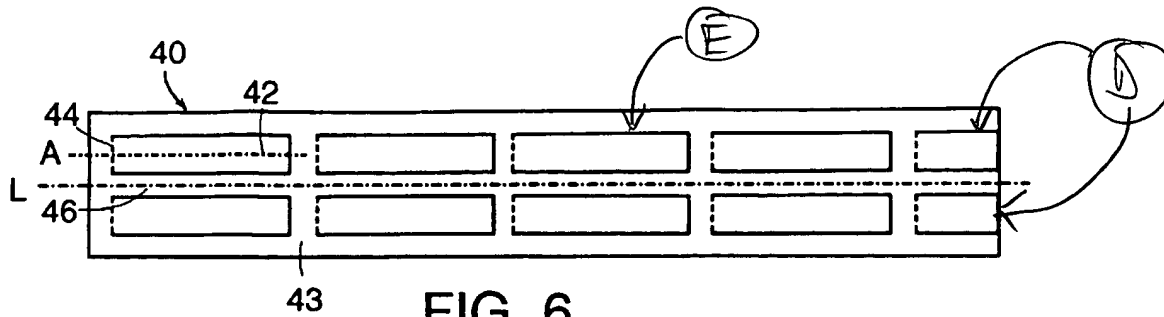
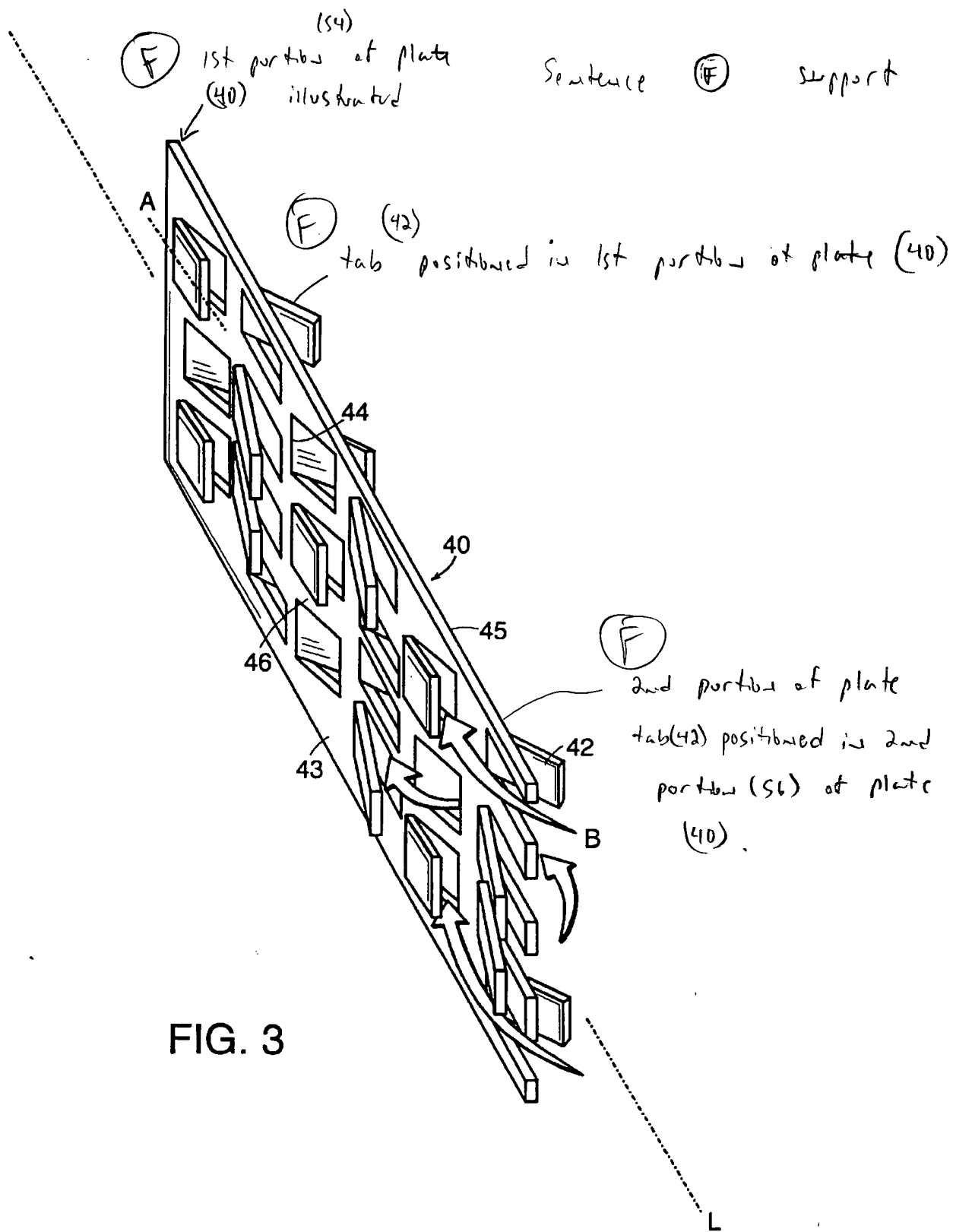


Exhibit F

“As shown in Figs. 3, 4, and 6-9, each row of tabs has a tab 42 positioned in first portion 54 of plate 40 and a tab 42 positioned in second portion 56 of plate 40.”





#### Exhibit G

“As shown in Fig. 3, in one embodiment, a row of tabs has a tab 42a extending outwardly away from first surface 43 of plate 40, an adjacent tab 42b extending outwardly away from second surface 45 of plate 40 and a third tab 42c which is adjacent tab 42b and which extends outwardly away from first surface 43 of plate 40.”

#### Exhibit H

“As shown in Fig. 3, other rows of tabs may have the individual tabs extending from either the first surface 43 or second surface 45.”

Sentence (G) Support

Sentence (H) support

for **A** support, see any number of tabs on this figure.

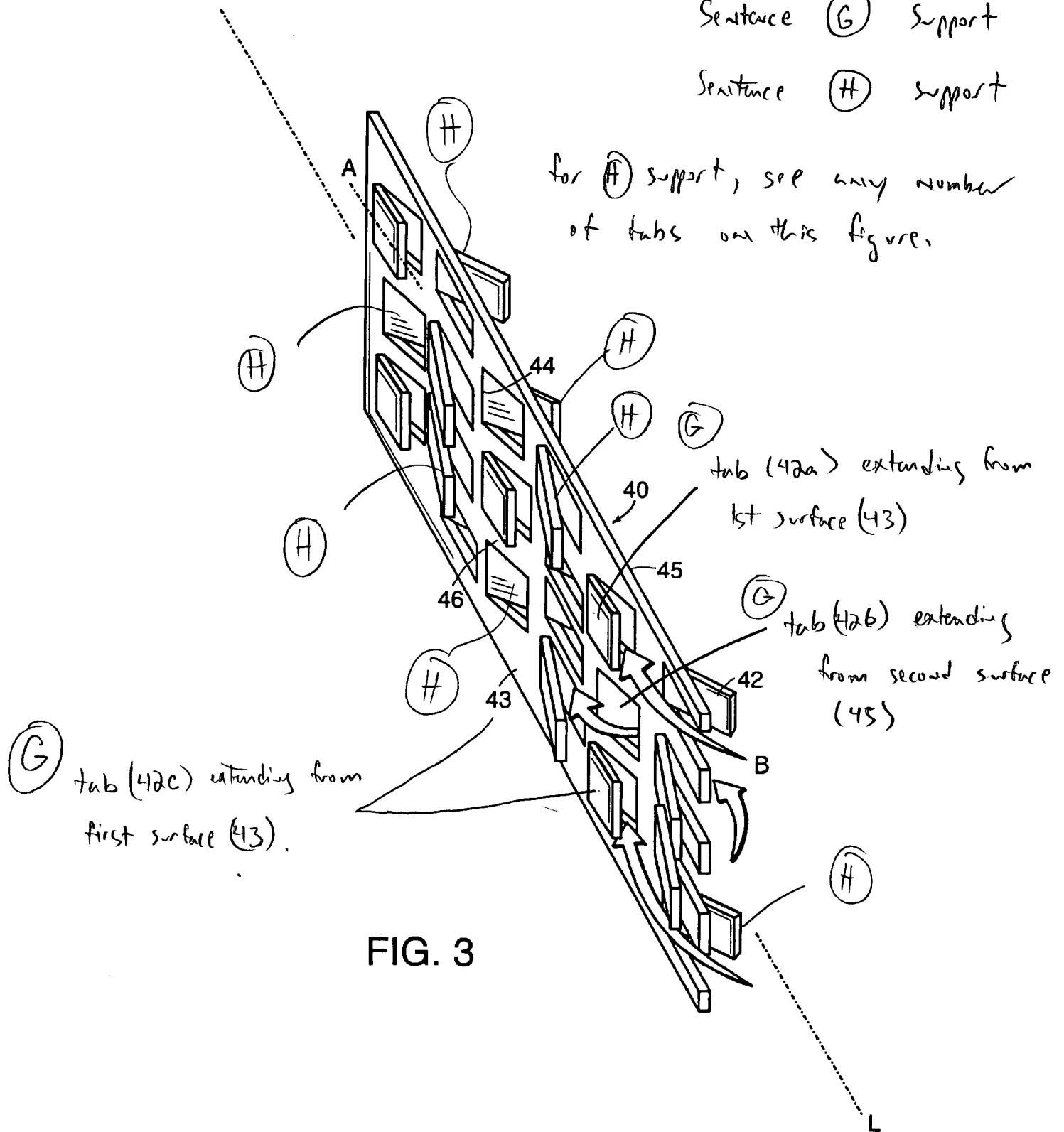


Exhibit I

“As shown in Figs. 3 and 6-9, in some embodiments, for the purpose of describing location and distribution of invention elements, a center line of plate 40 may be located where the longitudinal axis is shown located along the center of plate 40.”

Sentence (I) support

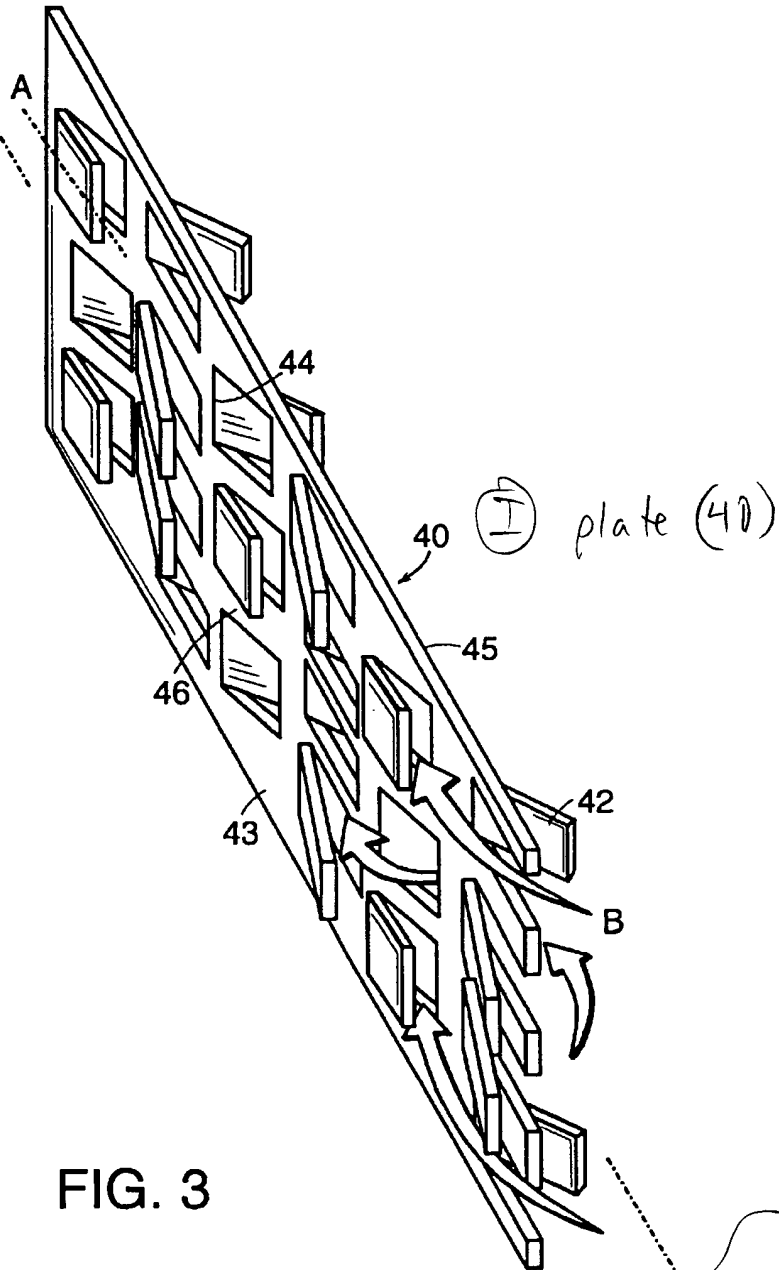


FIG. 3

(I) longitudinal axis  
or centerline  
of plate (40).

#### Exhibit J

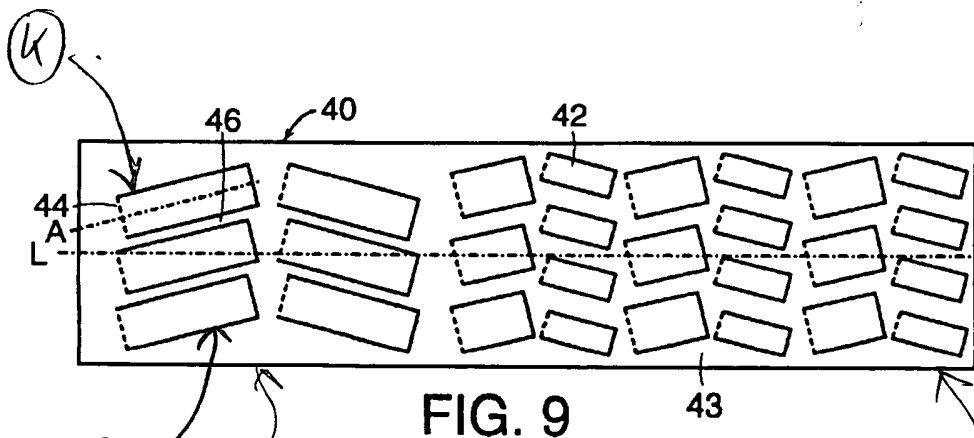
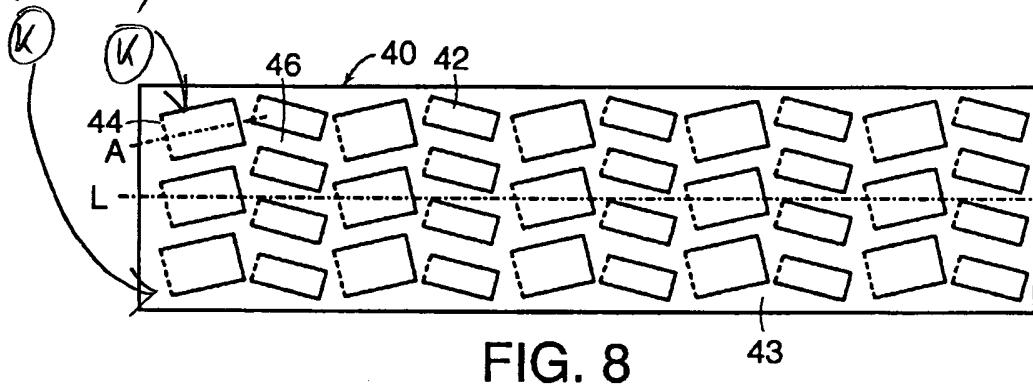
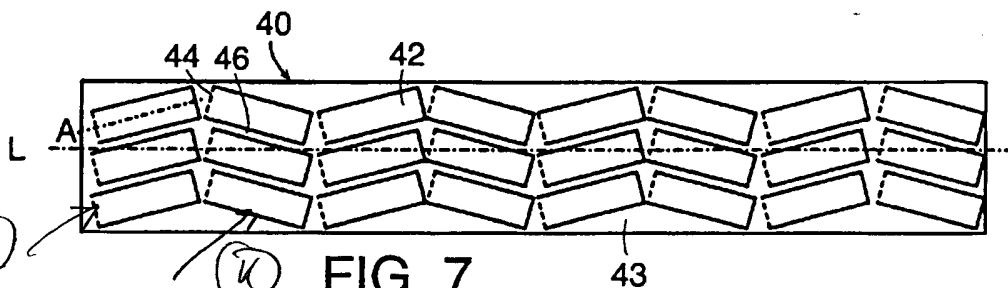
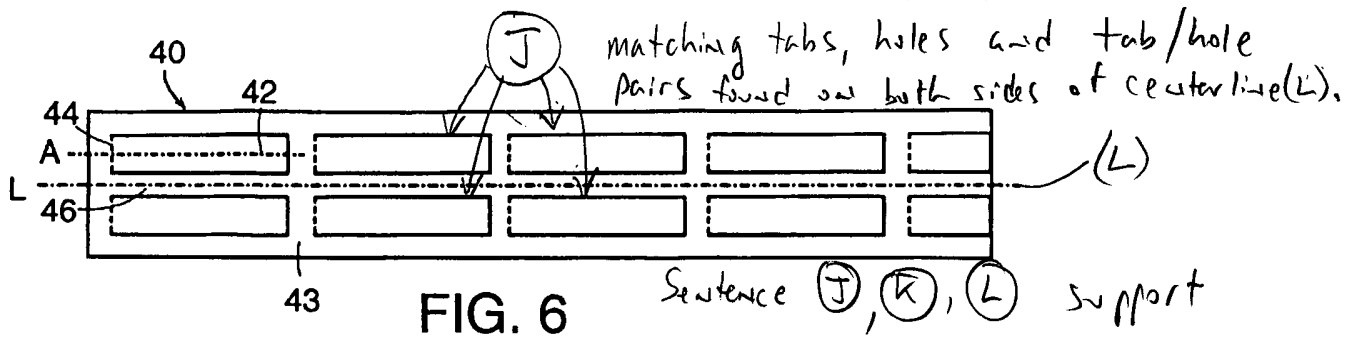
“As shown in the figures, in some embodiments tabs 42, holes 58 and tab/hole pairs are arranged so the same are found on both sides of the center line.”

#### Exhibit K

“Further, as shown in the figures and described herein, in some embodiments these elements are also arranged symmetrically in a pattern about the center line.”

#### Exhibit L

“In such embodiments, as shown in the figures, the portion of the plate 40 referred to as first portion 54 is instead referred to as first half 54 and the portion of plate 40 referred to as second portion 56 is instead referred to as second half 56.”



first half of plate (10)

2nd half of plate (40)

Exhibit M

“As shown in Fig. 3, each tab 42 is adjacent to its corresponding hole 58 in plate 40 created by bending tab 42 from plate 40.”

Exhibit N

“At least a portion of a side of each hole 58 is comprised of crease 44 of tab 42 that hole 58 is adjacent to.”

Exhibit O

“As shown in Fig. 3, crease 44 both connects tab 42 to plate 40 and is at least a portion of a side of hole 58.”



Sentence (M) Support

Sentence (N) Support

Sentence (O) Support

(M) each tab (42) is adjacent to its hole (58),

44 - (N) crease (44) of tab (42)  
that hole is adjacent to.

① crease (44) both connect  
tab (42) to plate (40)  
and at least a portion  
of a side of a hole.

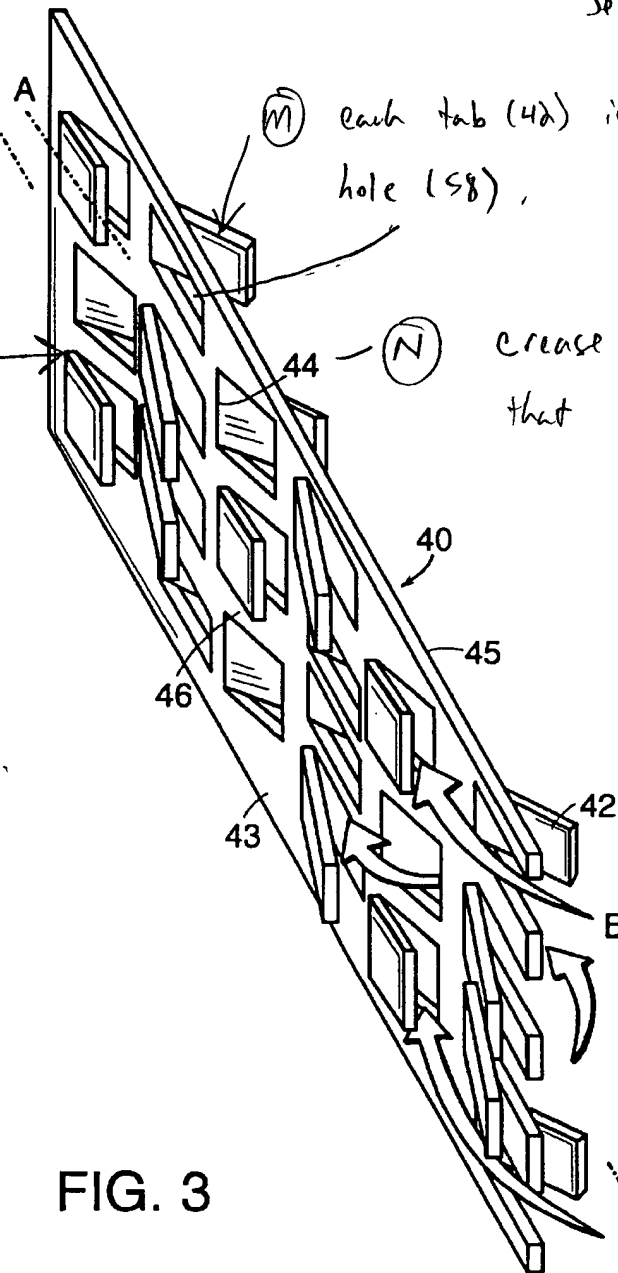


FIG. 3

Exhibit P

“As shown in Fig. 3 and reflected in Figs. 4-10, tabs 42 extend outwardly from plate 40 over at least part of their adjacent corresponding holes 58.”

Exhibit Q

“As expressly shown in Fig. 3, and as is implicit in Figs. 4-10 and the above discussion, heating fluid B is flowable through holes 58 created in plate 40 by bending tabs 42 out of plate 40.”

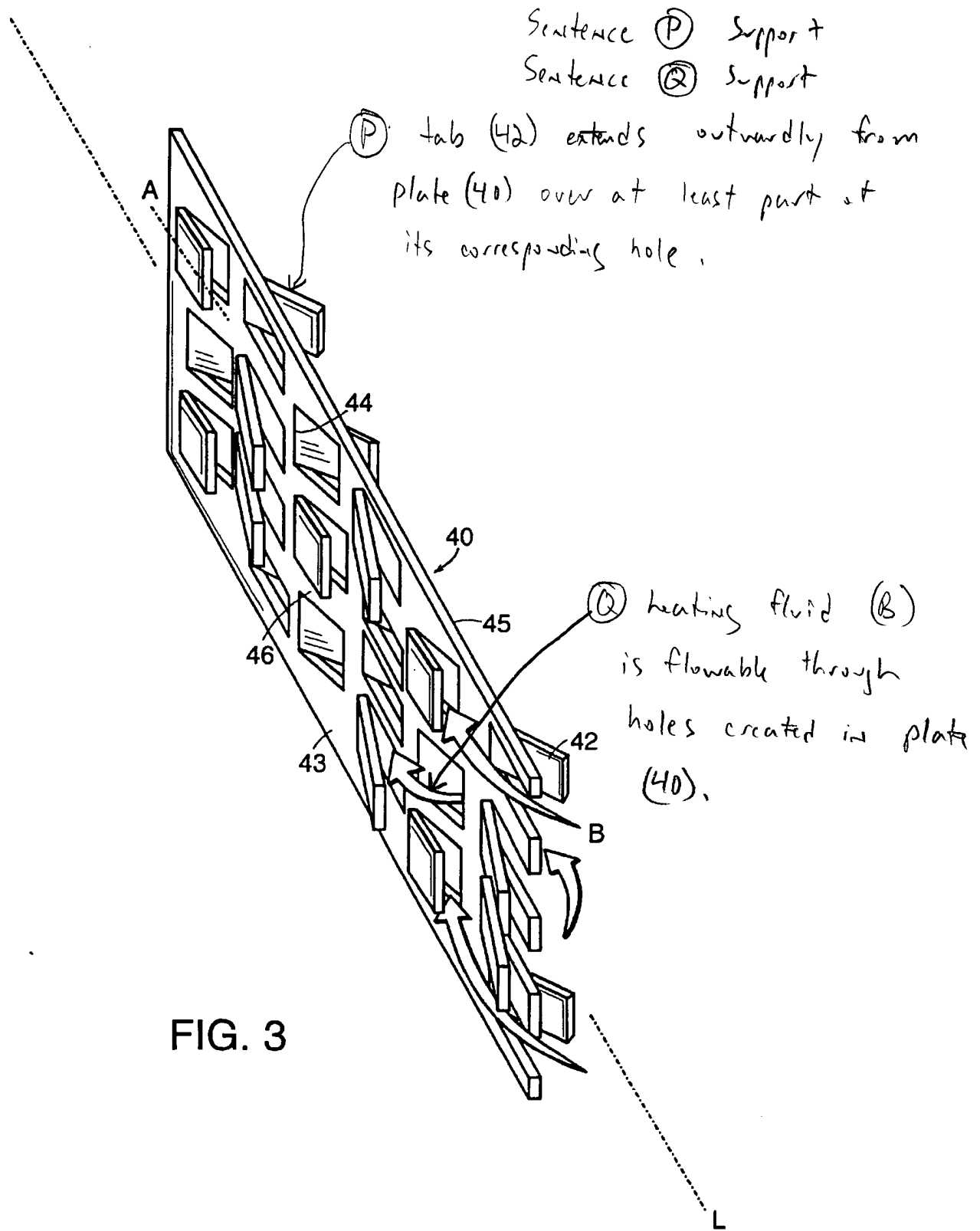
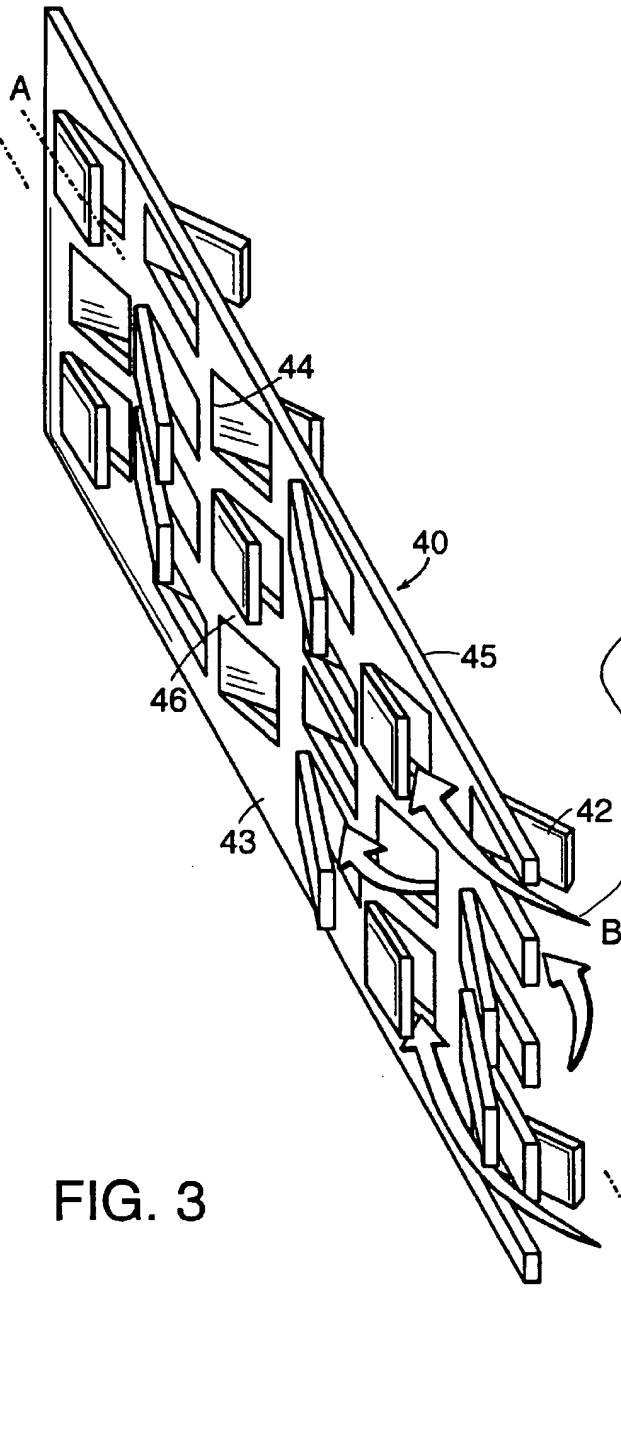


FIG. 3

Exhibit R

“Further, in some embodiments, as shown in Fig. 3 and implicit in Figs 4-10, heating fluid B is diverted by inner surface 60 of tab 42 through tab 42’s corresponding hole 58.”

Sentence (R) support



(R) heating fluid (B) is diverted by the inner surface of tab (42) through its corresponding hole.

FIG. 3

Exhibit S

“As shown in Figs. 3, 4, 5, and 10, the tabs 42 are not in contact with heat transfer tube 16. The baffle plate 40 is located and angled within transfer tube 16, and each of the plurality of tabs 42 on baffle plate 40 have a length and angle which positions tabs 42 relative to heat transfer tube 16 so the tabs 42 are not in contact with heat transfer tube 16.”

(S) each tab (42) have length and angle for positioning relative to tube (16).

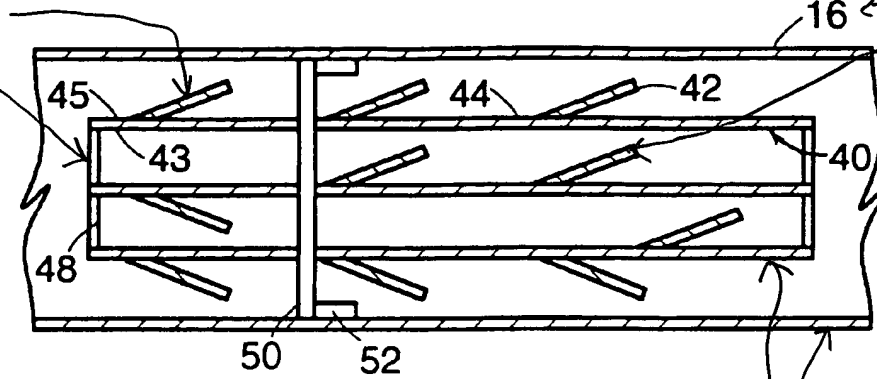


FIG. 10

(S) tabs are not in contact with tube (16)

(S) Baffle plate (40) is located and angled within tube (16)

Sentence (S) support

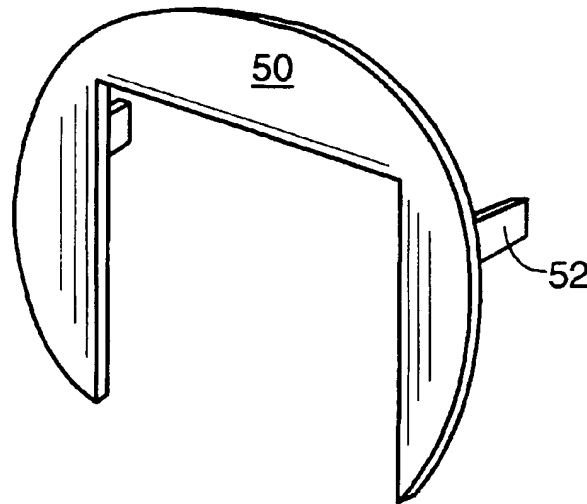


FIG. 11

Exhibit T

“No structure is shown in this application which prevents the heated gas from flowing between the end of each tab 42 and the portion of heat transfer conduit 16 most closely adjacent to the end of each tab 42.”



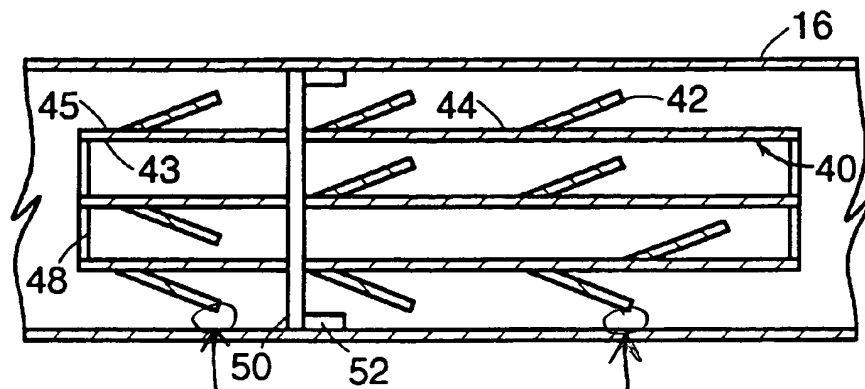


FIG. 10

Sentence ① Support

① nothing prevents heating fluid from flowing between the end of tube (42) and the adjacent portion of the tube (16).

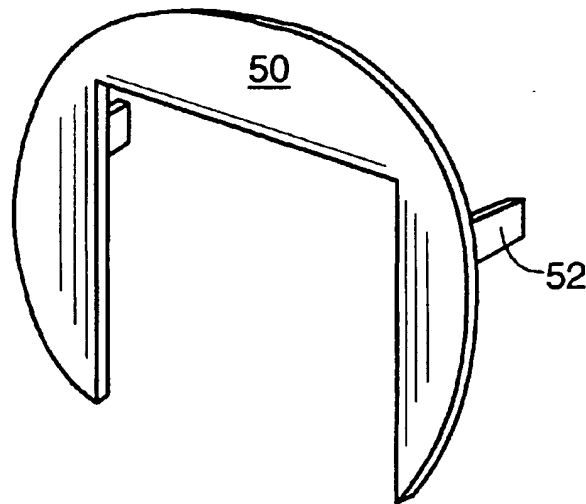
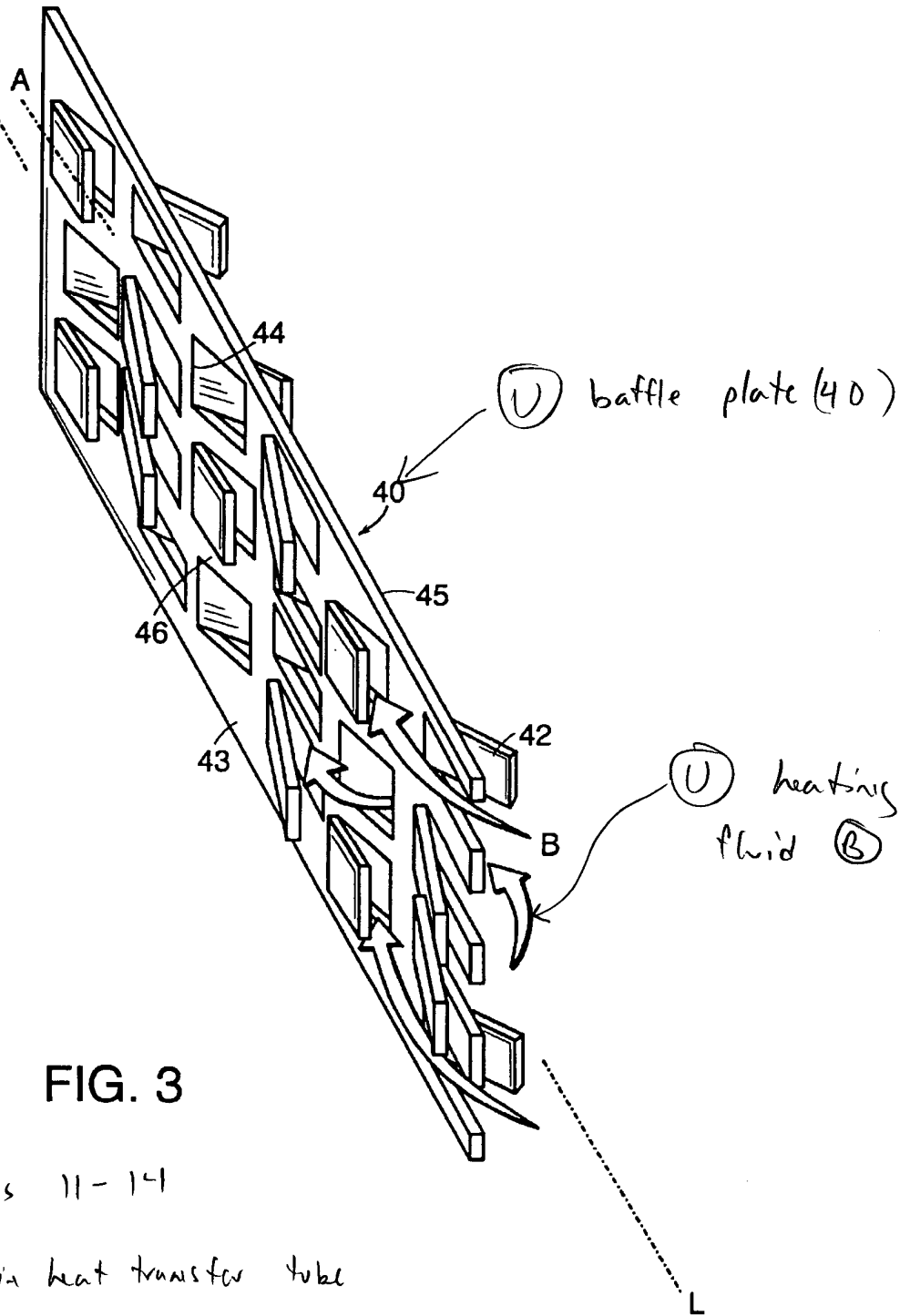


FIG. 11

Exhibit U

“As discussed above, the increased turbulence of flow within heat transfer tube 16 caused by the invented baffle plate improves and enhances heat transfer from the hot gases through heat transfer tube 16 into the vat containing shortening of the deep fat fryer system.”

Sentence (U) Support



See also C 4, Lines 11-14

"increased turbulence in heat transfer tube (16) thereby enhances the heat transfer from the heated air, through heat transfer tube 16."

Exhibit V

“Each tab 42 and its corresponding hole 58, share a common crease 44 and are referred to herein as comprising a “tab/hole pair.”

Sentence (V) support

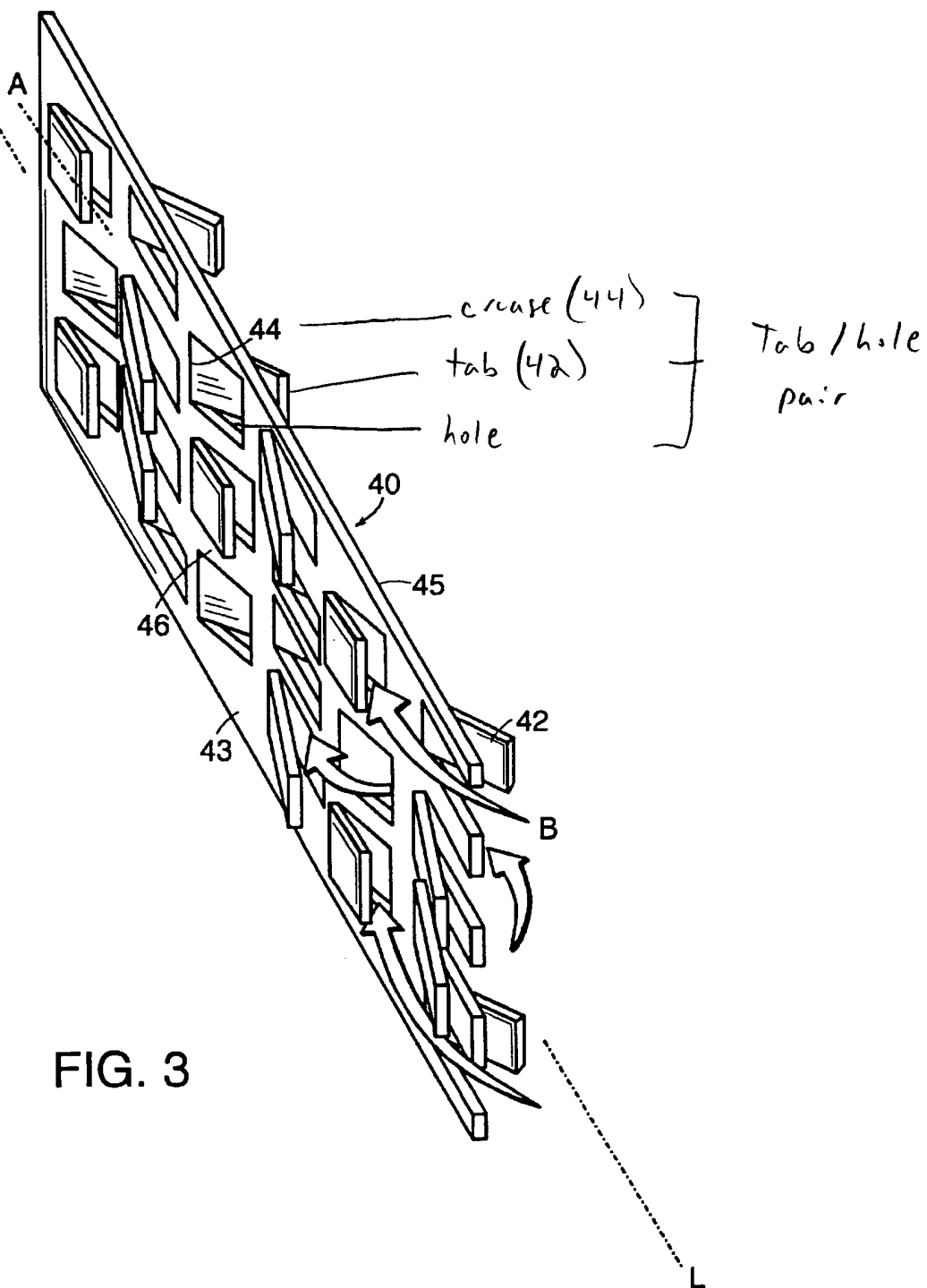


FIG. 3

Exhibit W

“As shown in Fig. 3, tab 42a and hole 58a comprise tab 42a/hole 58a pair.”

Exhibit X

“Tab 42b and hole 58b comprise tab 42b/hole 58b pair. Tab 42c and hole 58c comprise tab 42c/hole 58c pair.”

Exhibit Y

“As shown in Fig. 3, Web 46a is the portion of plate 40 between tab 42a/hole 58a pair and tab 42b/hole 58b pair. Web 46b is the portion of plate 40 between tab 42b/hole 58b pair and tab 42c/hole 58c pair.”

Sentences (W), (X), and (Y)  
Support.

The material of sentences  
(W), (X), (Y) deals only with  
applying reference numerals  
to features shown in  
original Figure 3.

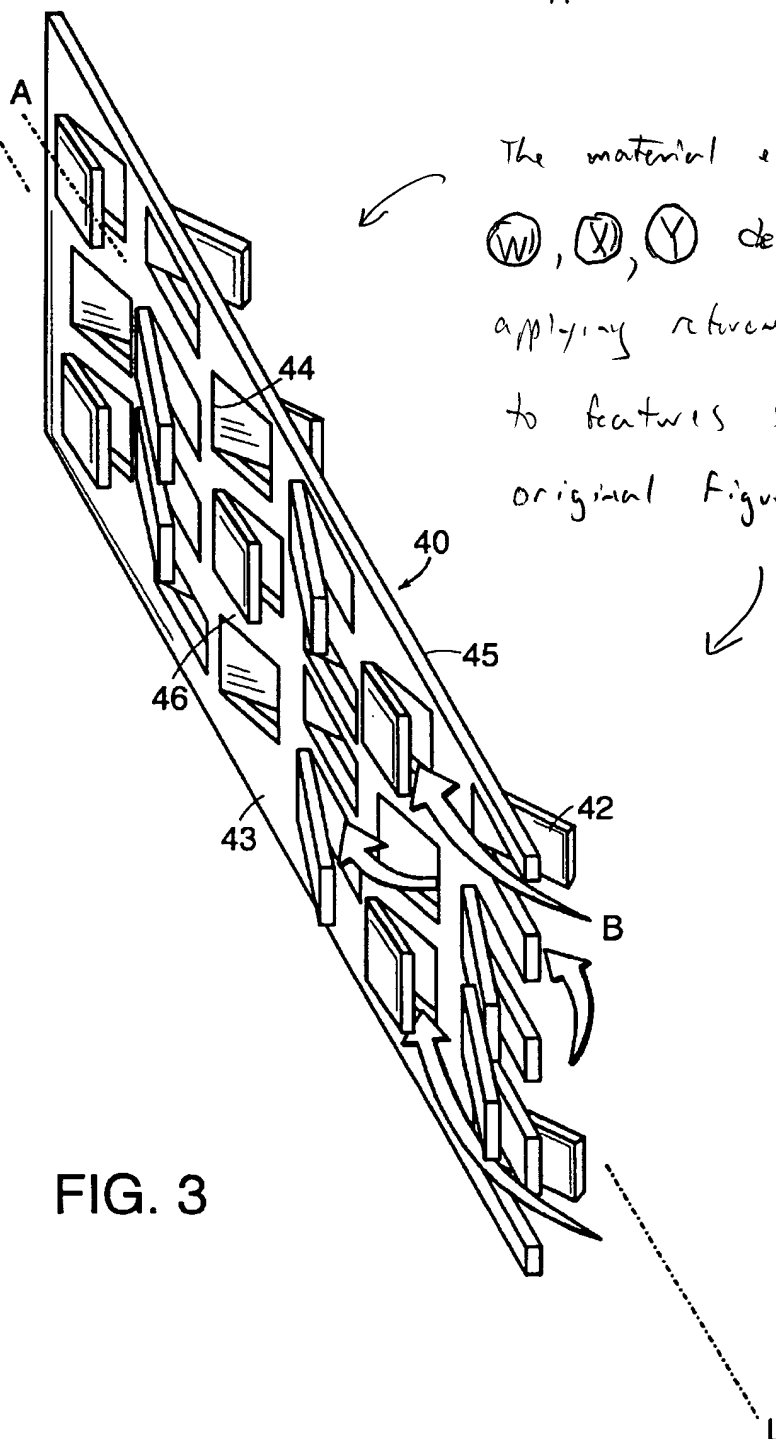


FIG. 3

## Exhibit Z

“As shown in Figs. 3 and 6-9, each row of tabs 42, holes 58 and tab/hole pairs may be comprised of at least two tabs, two holes or two tab/hole pairs, or at least three tabs, three holes and three tab/hole pairs, or at least four tabs, four holes and four tab/hole pairs. No limit to the number of tabs, holes or tab/hole pairs in a row is shown.”

“As shown in Figs. 3 and 6-9, each row has  $n - 1$  webs, where  $n$  equals the number of tab/hole pairs in the row. If a row is comprised of three tabs and three holes, i.e. three tab/hole pairs, that row has two webs ( $3 \text{ tab/hole pairs} - 1 = 2 \text{ webs}$ ). If a row is comprised of four tabs and four holes, i.e. four tab/hole pairs, that row has three webs ( $4 \text{ tab/hole pairs} - 1 = 3 \text{ webs}$ ).”

“As shown in Figs. 3-5 and 7-10, the relationship of tabs 42 on the baffle plate 40 is to generally present alternating sizes, arrangements and angles to the flowing heated gas and alternating from extending from first surface 43 and then second surface 45, for the purpose of increasing turbulence.”

“Some rows are presented in which tabs 42 alternately extend from the first side and second side.”

“As shown in the figures, tabs 42 are presented which extend from the first surface of the tab preceding it (from the point of view of the flowing heated gas of Fig. 3) extend from the second surface and vice versa.”



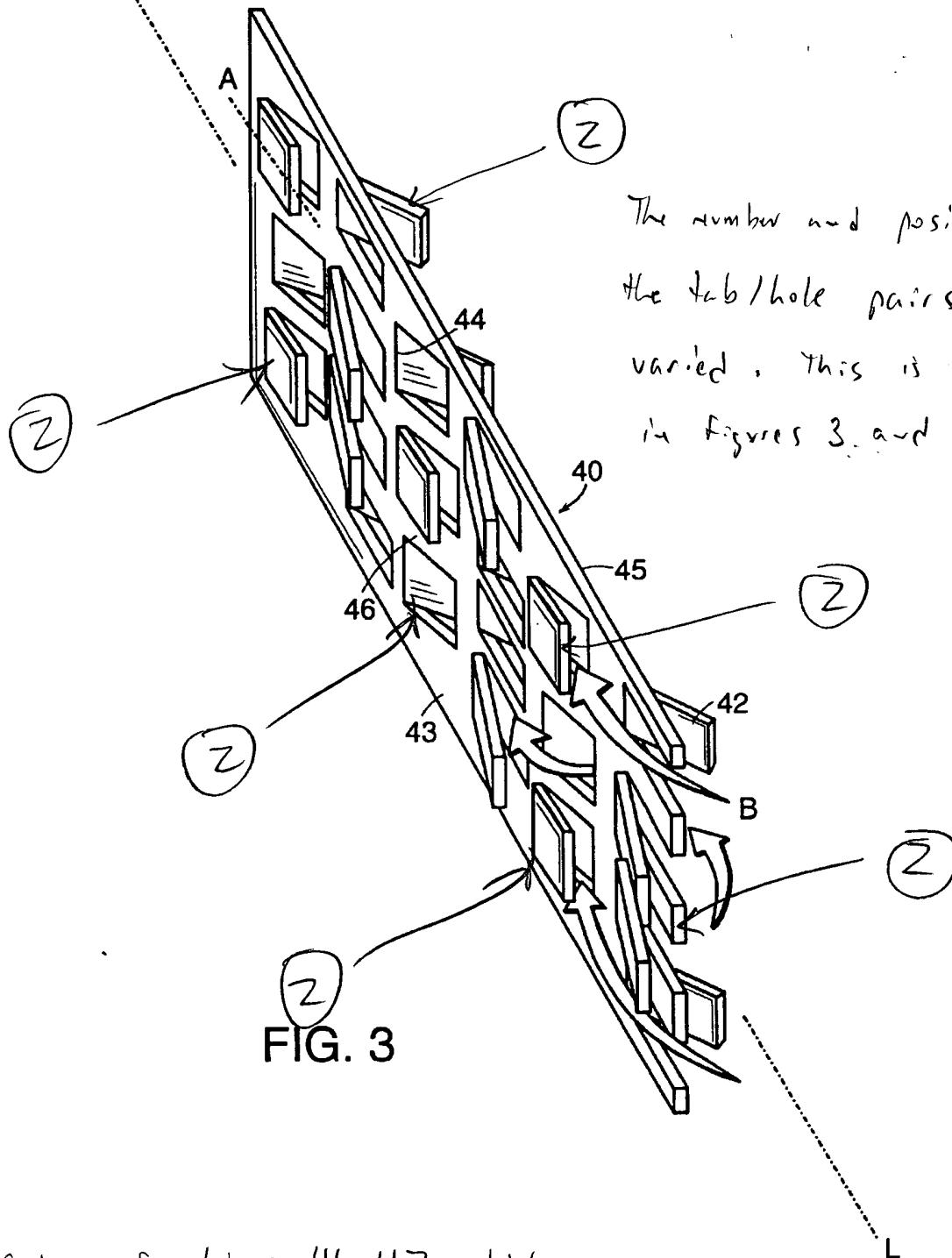
“As shown in the Figs., an equal or approximately equal number of tabs, holes, webs, and tab hole pairs may be arranged on either side of the center line of baffle plate 40 on both sides of the baffle plate, which is shown in Figs. 3 and 6-9 as corresponding with longitudinal axis L.”

“As shown in Figs. 3 and 6-9, they may be and arranged generally symmetrically about the longitudinal axis L.”

“As shown in Fig 6, the webs and tabs may be positioned in straight lines, one behind another, in the direction of the longitudinal axis L.”

“As shown in Fig 6, the tabs 42 may be similarly positioned.”

Portion (Z) support.



See also Column 5, Lines 46-47 which states that rows may have the same or different number of tabs from each of the other rows.

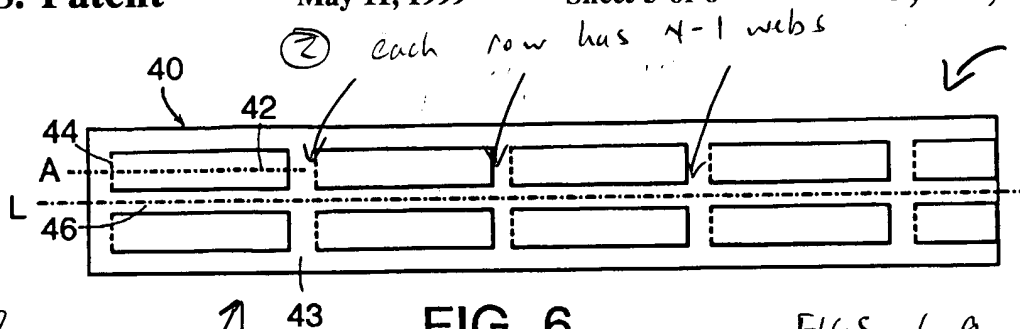


FIG. 6

FIGS 6-9 provide additional examples of a plurality of variations.

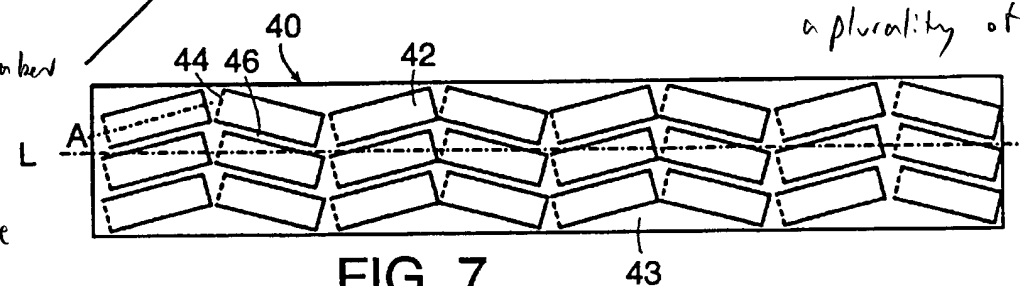


FIG. 7

② at least 3 tabs

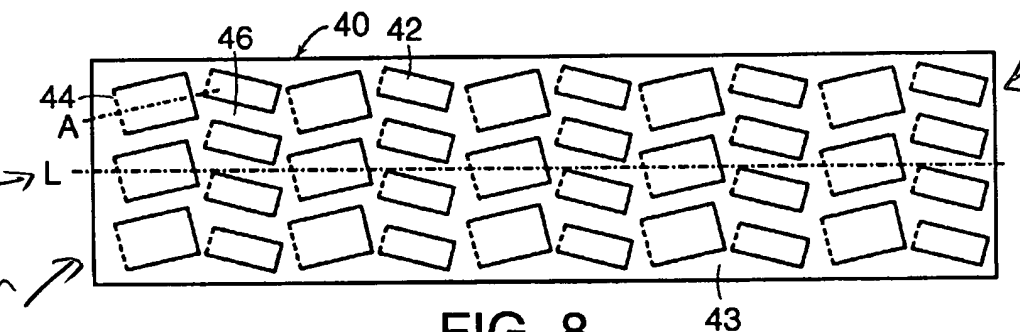


FIG. 8

② at least 4 tabs

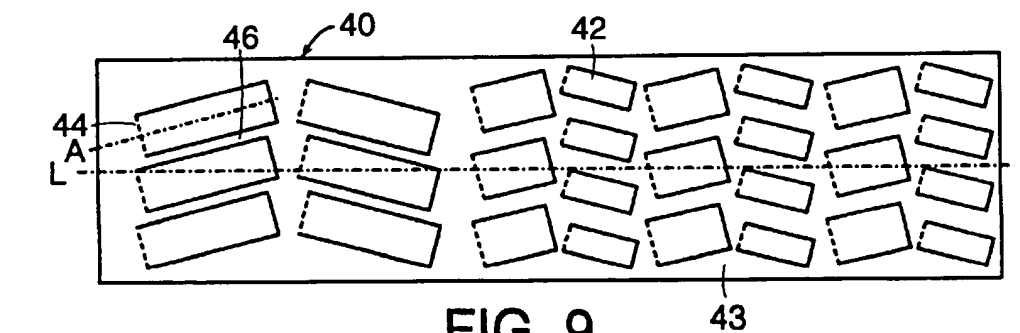


FIG. 9